

**** UNOFFICIAL ******REMARKS****Overview**

Claims 1-10, 17 and 18 are pending in this application. The present response is an earnest effort to traverse all rejections such that the present application is in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

Issues Under 35 U.S.C. § 103

Claims 1, 2, 4-9, 17 and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 5,721,783 to Anderson in view of U. S. Patent No. 5,664,012 to Chen. This rejection is respectfully traversed.

Anderson is directed towards a hearing aid with a wireless remote processor (Abstract). Anderson discloses that there is an earpiece and then there is a remote processor unit (RPU) which processes information received from the earpiece (Figure 1). It is noted that one of the primary objects of the Anderson invention is to remove audio signal enhancement functions from the earpiece and place them in an RPU (column 2, lines 19-39). Claim 1 specifically requires "an earpiece adapted to be inserted into the external auditory canal of the user and having . . . a speech processor operatively connected to the one or more sensors." Contrary to the Examiner's interpretation of Anderson, Anderson does not disclose an earpiece having a speech processor. The Examiner cites to Figure 1 for this proposition, indicating that element 13 references a speech processor. This is not correct. Element 13 of Figure 1 of Anderson merely references an RF transceiver and not a speech processor in the earpiece. Therefore, Anderson does not disclose

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all that the Examiner purports it to and the Examiner should withdraw the rejection to claim 1 on this basis.

The Examiner indicates that because Anderson discloses a transmitter, Anderson also discloses a "speech processor" to convert speech signals to RF signals (Office Action, page 6, numbered paragraph 5). Such a leap by the Examiner is simply unsupported. It is observed that the claims require both a "speech processor" and a "transmitter". Therefore it is unclear how the Examiner can consider the "transmitter" of Anderson to be both a "transmitter" and a processor. If it is the Examiner's position that by Anderson disclosing a "transmitter" Anderson inherently discloses a processor, then the Examiner's position is simply wrong as there is no need for there to be a processor in order to transmit sounds. In order for an element to be inherently present requires that the element be necessarily present and be recognized as such by one skilled in the art. This is a burden that the Examiner simply cannot meet. The processor is a separate element and the Examiner points to no language in Anderson that indicates its presence. Therefore these rejections must be withdrawn.

The Examiner recognizes that Anderson does not disclose a cradle for supporting a host device (Office Action, page 3, first full paragraph). Therefore, the Examiner relies upon Chen. Chen discloses a hands free device for a portable phone (Abstract). Contrary to the Examiner's interpretation of Chen, Chen does not disclose a "cradle comprising . . . a second transmitter and a second receiver" as required by claim 1. The Examiner's position is that the external wire connection in Figure 2 of Chen is a "transmitter" and a "receiver". (Office Action, pages 6-7, numbered paragraph 5). Whether wired or wireless, a "transmitter" and a "receiver" are structural limitations which are not met by showing a wired connection. Therefore, this rejection must be withdrawn on this basis as well.

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Claim 10 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson and Chen in view of U. S. Patent No. 6,181,801 to Puthuff et al. Claim 10 depends from claim 1. Puthuff does not remedy the deficiencies in the teachings of Anderson and Chen. Therefore, this rejection to claim 10 must be withdrawn.

Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson and Chen in view of U. S. Patent No. 5,917,698 to Viallet. Claim 3 depends from claim 1. Viallet does not remedy the deficiencies in the teachings of Anderson and Chen. Therefore, this rejection to claim 3 must also be withdrawn.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,

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